

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF MARK) APPEAL NO. 07-A-2088
HART from the decision of the Board of Equalization) FINAL DECISION
of Shoshone County for tax year 2007.) AND ORDER

RESIDENTIAL PROPERTY APPEAL

THIS MATTER came on for hearing September 25, 2007 in Wallace, Idaho before Hearing Officer Steven Wallace. Board Members Lyle R. Cobbs , David E. Kinghorn and Linda S. Pike participated in this decision. Appellant Mark Hart appeared with his spouse and witness Sherry Hart. Assessor Jerry White and Deputy Assessor Casey Stoddard appeared for Respondent Shoshone County. This appeal is taken from a decision of the Shoshone County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RP49N02E327560A.

The issue on appeal is the market value of a property containing eight (8) older residences.

The decision of the Shoshone County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$58,090, and assessed residences value is \$122,230, for a total assessed value of \$180,320. Appellant requests a zero value.

The subject property consists of eight (8) residences on a .779 acres, located in Pinehurst, Idaho. The residences are in various degrees of disrepair.

Appellants described some of the problems with subject property.

- Water from culverts drain onto subject property.

- New road adjacent to the property was built higher than property causing pooling of water on subject property.

- Property has a high water table which restricts excess drainage from absorbing.

- Flooding and the pooling of water has caused damage to the residences. The damage includes mold, foundation damage, and septic systems made unuseable resulting in loss of renters and rent revenue.

Appellant's goal was to refurbish the residences in order to furnish low cost housing for students or disabled widows. Appellant does not know how to solve the water problem or what can be done with the property, and therefore believes the property is unsaleable. No comparable sales exist for subject because there is no property with eight residences nor land with similar flooding and water problems. Appellant is uncertain as to whether the residences and property are going to be condemned, taken by FEMA, or if building permits would be issued. Therefore the county should reduce the value to nothing.

The Assessor visited subject in June, 2007, and found that four or five of the residences were occupied. Appellant also testified that four were occupied or in use on January 1, 2007. The Pro Val sheets furnished by Respondent (Respondent Exhibit # 1) noted different degrees of depreciation on the residences. Fifty-percent depreciation is considered unliveable. Five residences were fifty-percent depreciated, two were forty-five percent depreciated, and one was fifty-five percent. These buildings had additional market adjustments and one had a \$2,500 "shed" value because it was used for storage.

The Respondent furnished information on three bare land sales in the area. These sales demonstrated the assessments were between 57% and 139% compared to the sales prices. These sales indicated values of \$3.25 to \$4.45 per square foot, while subject's assessed value

is \$1.71 per square foot.

According to the Assessor, “the houses were in poor condition and the plumbing did not work in most of the houses. The roof was bad on several of the houses.” One of the “houses” had not been repaired after a fire in the upstairs.

The Hearing Officer left the record open for the inclusion of a recalculated Homestead Exemption which was submitted by the County.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value or exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

All property in Idaho is taxable unless specifically exempted by statute. *See Idaho Code § 63-601.* Subject does not qualify for any of the enumerated exemptions, therefore it is subject to assessment and taxation.

For the purposes of property taxation, Idaho uses a market value standard as defined by Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing sell, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Appellant requested zero value on subject land and residence and yet four of the eight residences were occupied and being used on the lien date of January 1, 2007. Given the on going property use a zero value is unreasonable.

Idaho Code § 63-205. ASSESSMENT -- MARKET VALUE FOR ASSESSMENT PURPOSES. (1) All real, personal and operating property subject to property taxation must be assessed annually at market value for assessment purposes as of 12:01 a.m. of the first day of January in the year in which such property taxes are levied, except as otherwise provided. Market value for assessment purposes shall be determined according to the requirements of this title or the rules promulgated by the state tax commission.

It was apparent from the record and the testimony, the residences were in poor condition.

The Respondent accounted for this by depreciating them 45% to 55%. Appellant was attempting to fix-up or maintain the residences and hoped all eight residence would eventually return to human habitation. Respondent has significantly reduced the property values and a zero value seems unreasonable. Appellant and others live on the property.

Post hearing, the Assessor provided a re-evaluation of the Homeowner's Exemption (Homestead) for subject and furnished this Board new calculations.

Absent a showing that an assessed valuation of property was prejudicially discriminative as to the property, or that the assessment was otherwise unlawful or erroneous, the presumption prevails that the value affixed by the assessor is correct. Janss Corp. vs. Board of Equalization of Blaine County, 93 Idaho 928, 478 P.2d 878 (1970). This Board concludes Appellant has not proved the inaccuracy of subject's market value assessment. Due to the County's recalculation for the exemption, we modify the decision of the Shoshone County Board of Equalization to reflect the newly calculated Exemption.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Shoshone County Board of Equalization concerning the subject parcel be, and the same hereby is, modified to reflect an increase in the Homestead Exemption as follows:

Land Cat. 12: Exemption from \$6,970 to \$13,940

Improvements Cat. 34: Exemption from \$2,825 to \$30,750.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

MAILED April 3, 2008